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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,649	10/24/2000	Jerome Swartz	021XAXX	2064

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EXAMINER


NGUYEN, CUONG H

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 08/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/695,649	Applicant(s) SWARTZ ET AL. 	
	Examiner CUONG H. NGUYEN	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 21-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### Status of the Claims

1. Claims 1-20 are canceled on 4/26/2004; the applicants add new claims 21-25 for examination on 4/26/2004.

### Response

2. The argument is moot because new ground(s) of rejection are applied for new claims 21-25. The limitation of "each customer carrying a portable terminal during travel through a venue" is taught by **Ogasawara** (US Pat. 6,513,015) when a customer carrying an ID card that can transmit signals to be recognized by POS when that ID card is in proximity with a specific products (see **Ogasawara**, claims 10-11); **Ogasawara** (US Pat. 6,386,450 filed 4/30/98) also discloses in 6:44-63 *"Specifically, shopping convenience is particularly enhanced by a customer location recognition feature of the personal shopping system which is able to recognize a customer's current location in a retail facility and, on the basis of a customer's current location, provide suitable directions or location indicia to promotional items which are located on store shelves most proximate to the customer's current location. Additionally, the customer location recognition feature is able to provide suitable directions or location indicia to selected items (such as the next item or the nearest item on a shopping list) on a particular customer's shopping list or to proposed replenishment items chosen on the basis of an analysis of shopper's personal shopping history, in a manner to be described further below. In addition to providing directions or location indicia to a shopper on the basis of predetermined or generated shopping lists, the customer location recognition feature is able to respond*

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*to customer prompts, by which a customer may further make inquiries about the location and direction of any specific item in the retail facility".*

O'Hagan (US Pat. 6,314,406) also teaches a portable terminal carrying by a customer in proximity of products to facilitate shopping (see O'Hagan, claims 7, and 26 disclose "a portable transaction computer alerts a user when it is in proximity of a specific product").

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

3. Independent claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (US Pat. 6,386,450), in view of Acampora et al. (US Pat. 4,789,983).

Ogasawara teaches a method of recommending transactions to potential customers traveling through a venue in which the transactions are offered, comprising:

a) enabling each customer to carry a portable terminal having a wireless transceiver and a display (see Ogasawara, the abstract);

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Ogasawara also teaches that a product/a product provider would send a signal to alarm a customer at a proximity as shown in the above "Response" (section 2);

It is old and well-known with wireless signal providers to:

- b) positioning a plurality of access nodes of a local area network at fixed, spaced-apart locations throughout the venue, each access node being in proximity with a different supplier of the transactions being offered at the venue, each access node having a wireless transceiver in wireless communication with the transceiver on the terminal when the customer is in proximity with the respective supplier proximally located to the respective access node because artisans recognize it is logic to arrange that structure;
- c) accessing a database for the respective supplier and retrieving a recommendation relating to the transactions being offered by the respective supplier; and
- d) displaying the recommendation on the display of the terminal for viewing by the customer (see **Ogasawara**, the abstract);

Acampora et al. also teach a method of directing customers to suppliers, comprising:

- a) positioning access nodes of a local area network (see **Acampora**, 1:11-20, 1:38-48), throughout the venue, one of the

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nodes being located in a common area of the venue (see **Acampora**, Fig.1, central node 30);

b) detect a customer in a proximity area by enabling wireless communication (see **Acampora**, claim 2 - using a wireless communication link) between a portable terminal carried by a respective customer and a node (the examiner submits that it is old and well-known to detect an object within an area using wireless communication, (e.g., with motion sensing to trigger other circuits/components for security reasons; then activating an electronic circuits to displaying products corresponding to that detected location);

c) delivering/displaying, supplier data identifying the suppliers by enabling wireless communication between the terminal and said node (please note that this step is also use by Ogasawara by "providing related information to a customer".

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ogasawara and Acampora et al. to recommend more transactions to potential customers traveling through a venue for the benefit of customer's convenience in purchasing related products while visiting that venue in order to encourage more visits to the same venue.

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4. Dependent claim 22 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ogasawara (US Pat. 6,386,450), in view of Acampora et al. (US Pat. 4,789,983), and in view of Peterson (US Pat. 6,324,522).

Ogasawara and Acampora et al. teach a method of claim 21 having delivering related product information steps. They do not expressly disclose about displaying different categories of products being offered by the respective supplier.

However, in a similar application of shopping for products, Peterson discloses about selecting categories of the suppliers in 9:10-30 "To conduct a product search 122, the user clicks on the "Products" button on the information network Main Mall page. The user will be presented with an alphabetical listing of all of the products that at least one vendor offers on the information network, as indicated at 124. The list indicates all possible products without restriction by region. When a desired product category is selected for which no vendor exists within a region selected in step 120, in a preferred embodiment, an appropriate message is displayed; the display may alternatively display a blank list to indicate that no vendors of the selected product category exist within the region selected in step 120. When a list is displayed, the user can scroll down the list until the user locates the product the user is looking for. To assist the user to move quickly to the location of the product on the alphabetical list of products, the user is also presented with a graphical listing of the alphabet. By clicking on the alphabet letter that the product name begins with, the user is moved to the beginning of the portion of the alphabetical list of products whose names begin with the selected letter. For example, to locate "Relays", the user clicks on the letter "R" in the alphabetical list. The user is immediately moved to all products that start with the letter "R".

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ogasawara and

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Acampora et al. with Peterson, to suggest about selecting categories of suppliers prior to displaying the supplier data as disclosed in the above cited paragraph, because this must inherently be done by a microprocessor in Fig.7 before outputting these data on a monitor screen for viewings as in Fig.7, ref. 132.

5. Dependent claim 23 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ogasawara (US Pat. 6,386,450), in view of Acampora et al. (US Pat. 4,789,983), and in view of Ogasawara (US Pat. 6,513,015).

The rationale and reference for above rejection of claim 21 are incorporated.

Acampora et al. do not disclose about recommending a product based on a user's shopping profile (including both accessing a profile and retrieving it).

However, in a similar application, Ogasawara (US Pat. 6,513,015) discloses accessing a customer database in which shopping profiles are stored, and wherein the retrieving step includes retrieving selected transactions based on the shopping profile of the respective customer.

For instance, see Ogasawara '015, 5:17-38 "In addition to promoting customer recognition and identification, the customer ID card is further useful in assisting each customer in making purchase transactions. The customer ID card is advantageously used in connection with a



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customer assistance or kiosk terminal which is able to develop and display various personalized assistance recommendations based on an analysis of demographic information, transaction history, and customer profile data read from the customer's ID card, or combination of an ID card and customer data maintained in a database in a store server or host computer. Additionally, each customer's shopping history and personal profile data is processed by an establishment's in-store terminals to thereby develop promotional item recommendations based on a customer's most recent transactions, and to make recommendations for particular coordinated items that might match an item recently purchased. In addition, based on each customer's data record, the commercial establishment is able to determine that a particular customer has not made any purchases of items falling within particular categories and is therefore able to generate one-on-one marketing programs specifically directed to that customer in order to remedy the deficiency."

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Acampora et al. and Ogasawara, to suggest about recommending a product based on a user's shopping profile for a benefit of advising/recommending a customer's needs in order to increase sale volumes of a venue.

**6. As for dependent claim 24:**

The rationale and reference for above rejection of claim 21 are incorporated.

Acampora further detects a customer in a vicinity by enabling wireless communication (see **Acampora**, claim 2 - using a wireless communication link) between a portable terminal carried by a respective customer and a node.

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7. Dependent claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (US Pat. 6,386,450), in view of Acampora et al. (US Pat. 4,789,983), and in view of O'Hagan et al., (US Pat. 6,314,406).

Ogasawara and Acampora provide claimed limitations as in claim 21.

Ogasawara and Acampora do not expressly disclose about a proximity sensor.

However, for shopping products from a similar environment, O'Hagan et al., disclose a proximity sensor (see O'Hagan 29:5-10, "Additionally, the CIT 14 can display customized web pages made by manufacturer's of the products on the customer's shopping list 984. Also, as the customer is walking along an aisle, for example, a proximity sensor detecting the presence of the CIT 14 could trigger the display 52 to show a web page relating to the sale of a particular product within the vicinity of the customer."

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ogasawara and Acampora et al. with O'Hagan et al., to recommending a product to a shopper based on a proximity sensor and a distance of the user to the product being recommended for the benefit of improving a buyer's attention to a particular product in an attempt to increase sale volume of a store.

#### Conclusion

8. Pending claims 21-25 are not patentable.

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9. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose number is 703-305-4553. The examiner can normally be reached on 7am-3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, JEFFREY A. SMITH can be reached on 703-308-3588. The fax phone number for the

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organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-746-5572.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Please provide support, with page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.

*Cuong H. Nguyen*

**CUAN**  
CUONG H. NGUYEN  
Primary Examiner  
Art Unit 3625